

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLEVELAND ROGERS,

Petitioner,  
v.

THOMAS BIRKETT, Warden,

Respondent.

---

Case No. 11-15485

HON. AVERN COHN

**ORDER DENYING PETITIONER'S MOTION FOR APPEAL BOND AND IMMEDIATE  
RELEASE FROM CUSTODY (Doc. 2)**

I.

On December 15, 2011, petitioner Cleveland Rogers filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 1) and a "Motion for Appeal Bond and Immediate Release from Custody" (Doc. 2). On December 20, 2011, the Court directed that respondent file a response to the petition by June 12, 2012. (Doc. 3).

For the reasons that follow, the motion for bond will be denied.

II.

To receive bond pending a decision on the merits of a habeas corpus petition, a petitioner must show a substantial claim of law based on the facts surrounding the petition and the existence of "some circumstance making the [motion for bond] exceptional and deserving of special treatment in the interests of justice." Dotson v. Clark, 900 F.2d 77, 79 (6th Cir. 1990). "There will be few occasions where a prisoner will meet this standard." Dotson, 900 F.2d at 79. Where the court finds no substantial claim that the petitioner is confined in violation of the Constitution, it need not reach the

issue of whether exceptional circumstances exist which deserve special treatment in the interest of justice. Id. Because a habeas petitioner "is appealing a presumptively valid state conviction . . . it will indeed be the very unusual case where a habeas petitioner is admitted to bail prior to a decision on the merits in the habeas case." Lee v. Jabe, 989 F.2d 869, 871 (6th Cir. 1993). Petitioner's motion fails to establish the existence of any extraordinary and exceptional circumstances which merit release on bond. Accordingly, the motion for bond is DENIED.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: January 3, 2012

I hereby certify that a copy of the foregoing document was mailed to Cleveland Rogers 303106, Central Michigan Correctional Facility, 320 N. Hubbard, St. Louis, MI 48880 on this date, January 3, 2012, by electronic and/or ordinary mail.

S/Julie Owens  
Case Manager, (313) 234-5160